

DOUBLE TAXATION: SHIPPING PROFITS

Exchange of notes at Washington September 13, October 19, and November 27, 1926

Entered into force November 27, 1926; operative from January 1, 1921

Made applicable to the Netherlands Indies by exchange of notes March 8, May 23, and November 8, 1939¹

Suspended January 1, 1947²

47 Stat. 2601; Executive Agreement Series 11

The Secretary of State to the Netherlands Chargé d'Affaires ad interim

DEPARTMENT OF STATE

WASHINGTON, September 13, 1926

SIR:

The Department informs you of the receipt of a communication from the Treasury Department regarding the draft of a Royal Decree, with English translation, to be issued by Her Majesty the Queen of the Netherlands, relative to the prevention of double taxation on income derived exclusively from the operation of ships, which was left at the Treasury Department on July 29, 1926. The English translation of the proposed decree reads as follows:

"We, Wilhelmina, by the Grace of God, Queen of The Netherlands, Princess of Orange-Nassau etc. etc.

"Whereas it is provided in the Unique Section of the Law of June 26, 1926, (Statute book No. 209), that we reserve Ourselves under No. 2 to make provisions, on a basis of reciprocity, preventing double taxation on earnings derived from the operation of ships, corresponding with equivalent provisions existing in the laws of foreign nations; and

"Whereas under Section 213, litt. b, No. 8 of the Revenue Act of the United States no tax is imposed on the income of an alien individual non-resident in the United States or of a foreign corporation which consists exclusively of earnings derived from the operation of a ship or ships documented

¹ Not printed.

² For duration of convention of Apr. 29, 1948 (TIAS 1855, *post*, p. 225).

under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States, do hereby proclaim and make known:

"UNIQUE SECTION

"CITIZENS OF THE UNITED STATES NON-RESIDENT IN THE NETHERLANDS AND CORPORATIONS ORGANIZED IN THE UNITED STATES WHICH EFFECTUATE IN THE NETHERLANDS THE SEA TRANSPORT WITH SHIPS DOCUMENTED UNDER THE LAW OF THE UNITED STATES ARE (WITH RETROACTIVE POWER TILL JANUARY 1, 1921) NOT SUBJECT TO TAXATION AS FAR AS INCOME DERIVED EXCLUSIVELY FROM SUCH INDUSTRY IS CONCERNED."

The Treasury Department states that it interprets the proposed decree as exempting from tax the income from sources within the Netherlands received by citizens of the United States non-resident in the Netherlands and by corporations organized in the United States, which consists exclusively of earnings derived from the operation of ships documented under the laws of the United States, such exemption applying to income received on or after January 1, 1921. It notes that the exemption is granted to corporations organized in the United States without limiting such exemption in any way.

The Treasury Department states that the decree as submitted to it meets the equivalent exemption requirements of Section 213(b)(8) of the United States Revenue Acts of 1921, 1924 and 1926.³

I shall be pleased to have you inform me when the decree is issued.

Accept, Sir, the renewed assurances of my high consideration.

For the Secretary of State:

JOSEPH C. GREW

JONKHEER DR. H. VAN ASCH VAN WYCK,
Chargé d'Affaires ad interim of the Netherlands.

The Netherlands Chargé d'Affaires ad interim to the Secretary of State

THE NETHERLAND LEGATION

WASHINGTON, October 19, 1926

No. 3219

SIR:

I had the honor to receive your note of September 13, 1926 by which you informed me of the receipt of a communication from the Treasury Department regarding the draft of a Royal Decree, with English translation, to be issued by Her Majesty the Queen of the Netherlands, relative to the prevention of double taxation on income derived exclusively from the operation of ships, which was left at the Treasury Department on July 29, 1926.

³ 42 Stat. 239; 43 Stat. 269; 44 Stat. 25.

In this note you stated that the English translation of the proposed decree reads as follows:

[For text of proposed decree, see U.S. note, above.]

You further informed me that the Treasury Department states that it interprets the proposed decree as exempting from tax the income from sources within the Netherlands received by citizens of the United States non-resident in the Netherlands and by corporations organized in the United States, which consists exclusively of earnings derived from the operation of ships documented under the laws of the United States, such exemption applying to income received on or after January 1, 1921, and that it notes that the exemption is granted to corporations organized in the United States without limiting such exemption in any way.

You also advised me that the Treasury Department states that the decree as submitted to it meets the equivalent exemption requirements of Section 213(b)(8) of the United States Revenue Acts of 1921, 1924, and 1926, and you finally stated that you should be pleased to have me inform you when the decree is issued.

In reply thereto I have in compliance with instructions from my Government the honor to inform you that the Treasury Department's above mentioned interpretation of the Royal Decree in question is correct and that the Decree in the form in which it was submitted was published on October 8, 1926 after having been promulgated on October 1, 1926.

Please accept, Sir, the renewed assurances of my highest consideration.

H. VAN ASCH VAN WYCK

THE HONORABLE,
THE SECRETARY OF STATE,
Washington, D.C.

The Secretary of State to the Netherlands Chargé d'Affaires ad interim

DEPARTMENT OF STATE
WASHINGTON, November 27, 1926

SIR:

Referring to your note of October 19, 1926, and to other correspondence in regard to the double taxation of income derived exclusively from the operation of ships, it affords me pleasure to inform you that I have received from the Acting Secretary of the Treasury a letter dated November 8, 1926, from which the following is quoted:

"Inasmuch as the Netherlands Government has promulgated the Royal Decree in the form in which it was submitted to this Department, and has informed this Government that the Treasury Department's interpretation of the Royal Decree is correct, it is held that the Netherlands satisfies the equiva-

lent exemption requirements of Section 213(b)(8) of the Revenue Acts of 1921, 1924 and 1926. Consequently, the income of a non-resident alien or a foreign corporation which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of the Netherlands is exempt from income tax imposed by the Revenue Acts of 1921, 1924 and 1926."

Accept, Sir, the renewed assurances of my high consideration.

For the Secretary of State:

LELAND HARRISON

JONKHEER DR. H. VAN ASCH VAN WYCK,

Chargé d'Affaires ad interim of the Netherlands.